



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 16, 2019

Mr. Neal Falgoust  
Assistant City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767-8828

OR2019-25934

Dear Mr. Falgoust:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 785809 (PIR# C035824).

The City of Austin (the "city") received a request for information related to any internal studies, involving a specified topic during a specified date range. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 of the Government Code encompasses section 92.006 of the Health and Safety Code, which makes certain information reported to the Texas Department of State Health Services (the "department") confidential. *See* Health & Safety Code § 92.006(a). Section 92.002 of the Health and Safety Code provides that "[s]pinal cord injuries, traumatic brain injuries, and submersion injuries are reportable to the department." *Id.* § 92.002(a). Section 92.006 provides in relevant part:

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<sup>1</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(a) All information and records relating to injuries are confidential, including information from injury investigations. That information may not be released or made public on subpoena or otherwise, except that release may be made:

(1) for statistical purposes, but only if a person is not identified;

(2) with the consent of each person identified in the information released; or

(3) to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named person.

(b) The executive commissioner [of the Health and Human Services Commission] shall adopt rules establishing procedures to ensure that all information and records maintained by the department under [subchapter A of chapter 92 of the Health and Safety Code] are kept confidential and protected from release to unauthorized persons.

*See id.* § 92.006(a), (b). Section 92.005 of the Health and Safety Code provides “[s]ubject to the confidentiality provisions of this subchapter, the department may collect, or cause to be collected, medical, demographic, or epidemiologic information from any medical or laboratory record or file to help the department in the epidemiologic investigation of injuries and their causes.” *Id.* § 92.005. In addition, section 92.004(a) of the Health and Safety Code provides “[t]he department may enter into contracts and agreements as necessary to carry out this subchapter.” *Id.* § 92.004(a). You state, and provide documentation showing, the city has entered into a contract with the department to carry out an investigation under subchapter A, chapter 92 of the Health and Safety Code. Upon review, we find the submitted records are confidential under section 92.006(a) of the Health and Safety Code. Therefore, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 92.006(a) of the Health and Safety Code.<sup>2</sup>

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

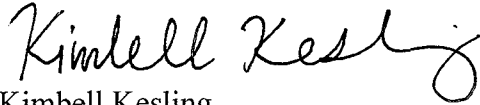
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

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<sup>2</sup> As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Kimbell Kesling". The signature is written in a cursive style with a large, looping initial 'K'.

Kimbell Kesling  
Attorney  
Open Records Division

KK/eb

Ref: ID# 785809

Enc. Submitted documents

c: Requestor  
(w/o enclosures)